IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2007

CORAM

THE HON'BLE MR. JUSTICE S.RAJESWARAN

W.P.No.14639 of 1996
and WMP.No.20048 and 20049/1996

THE MANAGEMENT OF TNCSC LTD BY PETITIONER
SR REGL MANAGER, THANJAVUR

Vs

1. Inspector of Labour,
(Authority under the T,N. Industrial Establishments
(Conferment of Permanent Status to Workmen) Act
Thanjavur
2. R. VENUGOPALAN
3. D. ASOKAN
4. G. RAJENDRAN
5. G. NEELAMAGAM
6. K.SHANMUGAM
7. G.NARAYANAN
8. S.ANBALAGAN
9. R.ANANDAN
10. V.THAMIZHSELVAN
11. R.MURUGESAN
12. G.PAKKIRISAMY
13. P.VEERAPANDIAN
14. K.KRISHNAMURTHY
15. M.VAIDYANATHAN
16. R.CHANDRASEKARAN
17. S.CHELLADURAI
18. S.CHIDAMBARAM
19. K.PUSHPARAJ
20. M.CHIDAMBARANATHAN
21. A.CHAKRAPANI
22. R.KARTHIKEYAN
23. S.JAYABALAN
24 K.CHELLADURAI
25 T.ARUMUGAM
26 M.KALIAMURTHY
27 S.SELVARAJ

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28 V.JAYABARAN
29 K.RAJALINGAM
30 M.SAMIYAPPAN
31 M.RAMU
32 N.SUBRAMANIAN
33 M.GUNASEKARAN
34 V.SOUNDARARAJAN
35 K.SHANMUGAM
36 C.JAGANATHAN
37 J.IYAPPAN
38 A.AROKKIYAM
39 C.SWAMINATHAN
40 P.RAJENDRAN
41 M.THANGARAJ
42 R.LAKSHMINARAYANAN
43 A.RAJARATHINAM
44 M.SUNDARAMOORTHY
45 K.RAJENDRAN
46 T.ILAYARASAN
47 K.THAVAMANI
48 K.NAGARAJAN
49 C.MARIAPPAN
50 S.JAYAPAL
51 R.GANESAN
52 G.RAJENDRAN
53 N.SUNDARAMOORTHY
54 A.KATHALINGAM
55 J.JAYACHANDRAN
56 G.XAVIER
57 R.GOPAL
58 P.DHARMARAJAN
59 S.GOVINDARAJAN
60 V.GOVINDARAJAN
61 P.AROCKIADAS
62 M.BALASUBRAMANIAN
63 N.KARUNANIDHI
64 V.MURUGAIAN
65 A.JOSEPH
66 V.RAMAIYAN
67 A.MAHALINGAM
68 S.RAVICHANDRAN
69 G.BASKARAN
70 S.THIAGARAJAN
71 U.JAYAKUMAR
72 K.VENKATA NARASIMHAN
73 G.VADUGARAJAN
74 G.RAJENDRAN
75 A.JAYAPAL
76 K.KUNJAPPA

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77 R.CHANDRASEKARAN
78 R.H V RAMASWAMY
79 R.KRISHNAKUMAR
80 V.JEGANNATHAN
81 M.KARUPPAIYAN
82 A.AROCKIADAS
83 C.SUYAM PARAKADSAM
84 K.DURAIRAJ
85 P.LOGANATHAN
86 T.GOVINDARAJAN
87 R.RAVICHANDRAN
88 S.GNANASEKARAN
89 G.MARUTHAMUTHU
90 N.RAJARAMAN
91 T.SELVANATHAN
92 M.KANDHAIYA
93 T.ADAIKALADAS
94 T.K.SOORIYAMOORTHY
95 G.RAJENDRAN
96 R.THIRUGANANSAMBANDAMURTHY
97 T.SUBRAMANIAN
98 A.PUNNIYAMOORTHY
99 G.JAWAHAR
100 C.GOVINDARAJ
101 G.SIVAKUMAR
102 A.SELVARAJ
103 V.PANNEER
104 T.MADHIAZHAGAN
105 D.JOHN BOSCO
106 Y.VINAYAGAMURTHY
107 K.KARUNANIDHI
108 K.SWAMINATHAN
109 R.RANGARAJAN
110 R.SIVALINGAM
111 S.CHANDRAKUMAR
112 T.NAGARAJAN
113 V.RAJKUMAR
114 S.ARUMUGAM
115 G.MARUTHAIYAN
116 P.BALAIAH
117 J.THOMAS
118 M.MEENAKUMAR
119 S.KRISHNAMOORTHY
120 P.PARAMASIVAM
121 M.MOHAN
122 R.KALIAMURTHY
123 P.RAJASEKARAN
124 N.MANIVELAN
125 G.SHAMUGA SUNDARAM

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126 C.SEKAR
127 S.RAIMAN
128 M.MARIMUTHU
129 K.S.PANNEER SELVAM
130 R.SEKAR
131 P.RAVI
132 S.MARIMUTHU
133 M.CHINNADURAI
134 V.KOTHANDAPANI
135 M.GOVINDARAJAN
136 V.RAJANGAM
137 G.SEKAR
138 R.GOPAL
139 G.GANESAN
140 S.SELVARAJ
141 S.ANBAZHAGAN
142 V.SENAPATHY
143 G.KANNAN
144 S.VENUGOPALAN
145 V.GUNASEKARAN
146 R.ELANGOVAN
147 N.MAHALINGAM
148 A.GANESAN
149 R.SIVAPRAKASAM
150 S.GANESAN
151 C.BALASUBRAMANIAN
152 R.SUNDARAMOORTHY
153 M THAVISU
154 T.KAMARAJ
155 N.DHARMAN
156 N.RAGHUNATHAN
Rep.by General Secretary
Tamil Nadu Civil Supplies
Corporation Thozhilalar Sangam, (AITUC)
65, East Raj Veethi, Thanjavur. .... Respondents

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Petition filed under Article 226 of the constitution of India to issue a writ of certiorari to call for the records in file Rc.No.AA/19146/92 in the office of the first respondent, dated 31st May 1995 issued by the first respondent.

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For Petitioner ... Mr. Meenakshi Sundaram

For R1 ... Additional Govt. Pleader[Writ]

For R2, R4,R5,R16,
R17,R19 to R35 etc., ... M/s.R.Ganesan and V.Gangadharan

ORDER

The prayer in the writ petition is to call for the records in file Rc.No.AA/19146/92 in the office of the first respondent and issue a writ of certiorari quashing the impugned order No. Rc.No.AA/19146/92 dated 31st May 1995 issued by the first respondent.

2. This writ petition has been filed by Tamil Nadu Civil Supplies Corporation Limited, Thanjavur for the aforesaid relief against the award of the 1st respondent allowing the claim of the respondents 2 to 156 for conferment of permanent status.

3. Heard learned counsel for the petitioner and the learned counsel for the respondents. I have also gone through the documents filed in support of the writ petition.

4.Learned counsel for the petitioner submitted that along with the present writ petition, W.P.No.14640/1996 was filed by the petitioner management challenging the identical award dated 25.3.1995 of the 1st respondent granting similar relief and the same was allowed by this court on 8.3.2004, following the decision of this court. Therefore the learned counsel for the petitioner submitted that similar order could be passed in this writ petition also. The learned counsel for the respondents 2 to 156 has also agreed that the present writ petition is identical to the writ petition No.14640/96 and the order passed in that writ petition could be passed in this writ petition also.

5.In W.P.No.14640/96, filed by the very same petitioner against a similar award upholding the claim of 129 workmen for conferment of permanent status, this court held as follows:

> "3.The learned counsel for the petitioner would submit that the question regarding regularisation of such seasonal employees are covered by two Section 12(3) settlements, one of the year 1991 and the other of the year 1997. The first respondent had declined to consider the terms of the 1991 settlement on the ground that the period for which the settlement had to be enforced, had expired and therefore that cannot be taken note of. Learned counsel for the petitioner would submit that until the other settlement takes its

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place, the terms of the previous settlement shall apply. A copy of the 1997 settlement has been produced and Clause 5 deals with the demand for giving preference to the qualified seasonal employees in the direct purchase centres while filling the regular vacancies. According to the learned counsel for the petitioner, this term in the settlement is adhered and that about 34 of the respondent workmen have been regularised and brought under time scale of pay and 64 have been recorded as seasonal workmen.

4.The judgment of the Division Bench of this Court in T.N.C.S.C. Workers' Union vs. T.N.C.S.C. Ltd. & Ors. (1998 1 LLJ 728) was brought to my notice. That case was also between the petitioner Corporation and the Tamil Nadu Civil Supplies Corporation Workers Union. In that case also, the question was regarding the regularisation of seasonal employees on the ground that the petitioners had completed 480 days of service. The Division Bench held that the provisions of Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 will not apply to the petitioner Corporation since direct purchase centres where employees are working are establishments of seasonal character depending on procurement season, and that the provisions of Act do not apply to seasonal employees.

5.The Division Bench also held that such seasonal employees are appointed on adhoc basis and not against sanctioned vacancy and therefore they are not ipso facto entitled to regularisation. In para 20 A, the Division Bench held that as and when vacancy arises, the Corporation is obliged to consider the claim of the qualified seasonal employees pursuant to the settlement reached between them and the workmen under Section 12 (3) of the Act. The copy of the 1997 settlement also shows that this particular union had been a signatory to the settlement since the Signatory No.4 is Thiru S.Chandrakumar, General Secretary who has represented the workers before the first respondent.

6.In view of the Division Bench judgment and recording the statement of the learned counsel for the petitioner that the petitioner Corporation would abide by the terms of the settlement and regularise the services of the workmen as and when vacancy arises in terms of the settlement, the impugned order is set aside. The writ petition is allowed. No costs."

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6.In view of the above judgment of this court, the impugned order is set aside and the writ petition is allowed.

7.It is also brought to my notice by the learned counsel for the respondents that all the respondents have been considered and their services have already been regularised in a phased manner and this submission is also recorded.

8.In the result, this writ petition is allowed. No costs. W.M.P.Nos.20048 and 20049 of 1996 are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

kua/sks

To
1. Inspector of Labour,
(Authority under the T,N. Industrial Establishments
(Conferment of Permanent Status to Workmen) Act
Thanjavur

W.P.No.14639 of 1996

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